IN THE HIGH COURT OF JUDICATURE AT PATNA
CR. REV. No.990 of 2008
UMESH MANDAL & ANR
Versus
STATE OF BIHAR
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2. 9.9.2008. This revision has been preferred against the judgment dated 22nd July,2008 passed by Additional District and Sessions Judge, Fast Track Court No.IV, Jamui in Cr. Appeal No.4 of 2007 thereby the order of conviction and sentence dated 20.1.2007 passed by Badhu Prasad, Judicial Magistrate, Ist Class, Jamui in Complaint Case No.693C of 2002, Trial No.1292 of 2007 has been confirmed against these two petitioners.

The learned Magistrate has convicted all the three accused persons under section 379 I.P.C. and sentenced them to undergo R.I. for two years.

This application is heard only on the point of sentence.

It is submitted by the learned counsel for the petitioner that the complainant is aunt of these petitioners. Charges were framed against all the three accused persons under sections 323, 324, 504 and 379 I.P.C. However, they have been

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acquitted under sections 323, 324 and 504 of the I.P.C. It is further submitted that one of the three accused persons has been acquitted by the appellate court. It is further submitted that the court below has wrongly rejected the prayer of the petitioners to release them under the provisions of Probation of Offenders Act. There is no criminal antecedent against them.

Considered the submission of the learned counsel for the petitioners. Perused the impugned order. It appears that both parties are gotias. There is also land dispute between the parties. The case is based on complaint petition.

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Under the facts and circumstances, I am of the view that the petitioners deserve the benefit of provision of Probation of Offenders Act.

Accordingly, the sentence awarded by the court below is hereby set aside. Petitioners are directed to be released under section 4 of the provisions of Offenders Act on their furnishing bond of Rs.2,000/-(two thousand)each with two sureties of the like

amount for a period of one year to maintain peace and be of good behaviour. The probation bond must be furnished within 15 days of receipt of this order.

Accordingly, this application is allowed with modification in the sentence.

Let a copy of this order be sent to the court below through fax on cost being deposited by the petitioners.

(Ghanshyam Prasad)

N.H./

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